

401 KAR 45:020. Types of special waste permits.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.46, 224.50, 224.70, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-305, 224.50-760

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 requires the cabinet to adopt administrative regulations for the management, processing, and disposal of special wastes. KRS 224.40-305 requires persons who establish, construct, operate, maintain or permit the use of a waste site or facility to obtain a permit. This chapter establishes the permitting standards for special waste sites or facilities, and the standards applicable to all special waste sites or facilities. This administrative regulation sets forth the classification of special waste sites or facilities for permitting purposes.

Section 1. Overview. This administrative regulation sets forth the type of permit a person is required to obtain prior to engaging in the disposal or management of special waste. The transition period for complying with requirements of this chapter is contained in Section 4 of this administrative regulation.

Section 2. Permit Types. This section establishes the following types of special waste site or facility permits:

(1) Formal permit. A formal permitting process is established that includes the submittal of a complete application, review of the application, and permit issuance or denial by the cabinet. A formal permit shall be obtained by persons engaged in the following activities:

(a) Special waste landfill. This is a category of waste site or facility designed and operated to accept for disposal a limited number of special wastes that are characterizable. The administrative and technical requirements for a special waste landfill are found in 401 KAR 45:030 and 401 KAR 45:110.

(b) Landfarming and composting. This is a category of special waste site or facility that landfarms or composts special waste.

1. A special waste landfarming or composting site or facility that manages municipal wastewater treatment sludge is classified as a Type A or Type B facility according to the metal concentrations of the sludge and volume of sludge accepted at the site as specified in Section 2 of 401 KAR 45:100. A Type B facility may be exempt from some of the requirements of a formal permit as specified in Section 2 of 401 KAR 45:100.

2. Other special waste landfarming or composting is the category of site or facility that manages special waste, other than municipal wastewater treatment sludge, which is classified using parameters set forth in this administrative regulation and additional parameters based upon the source, chemical and physical characteristics of the waste, volume of waste, and its potential for adverse impact on human health or the environment. Other special waste landfarming or composting facilities shall be classified as either a Type A or Type B facility in accordance with Section 2 of 401 KAR 45:100.

(2) Permit-by-rule. This is a category of waste site or facility permit for certain special waste management practices listed in 401 KAR 45:060 that are deemed to have a permit without the owner or operator having made application or registration with the cabinet.

(3) Registered permit-by-rule. This is a category of waste site or facility permit for certain special waste management practices listed in 401 KAR 45:070 that are deemed to have a permit without further action by the cabinet upon acknowledgement by the cabinet of a complete registration by the owner or operator.

(4) Emergency permit. This is a category of special waste site or facility permit for the short-term storage or disposal of special waste generated during certain emergency situations, issued in ac-

cordance with 401 KAR 45:135.

(5) Research, development, and demonstration permit. This is a category of special waste or facility permit to demonstrate unproven technology, issued in accordance with 401 KAR 45:135.

Section 3. Special Waste Formal Permit Phases. The application process to obtain a formal permit shall consist of two (2) phases as follows:

(1) Upon approval of a permit application, the cabinet shall issue a construction permit that authorizes the owner or operator to commence construction of a site or facility in accordance with the terms and conditions of the construction permit; and

(2) Upon completion of the construction phase the owner or operator shall notify the cabinet, in accordance with Section 1(11) of 401 KAR 45:140, that construction of the site or facility is complete. The cabinet shall inspect the site or facility to ensure compliance with all construction permit requirements, and, upon execution of financial assurance and the submission of a fee specified in Section 2(1)(d) of 401 KAR 45:250, the cabinet shall issue a construction/operation permit.

Section 4. Transition from Solid Waste Site or Facility Permits to Special Waste Site or Facility Permits. (1) Within six (6) months of the effective date of this administrative regulation, any person that possesses a solid waste landfill or landfarming permit that disposes of special waste as defined in KRS 224.50-760 issued before the effective date of this administrative regulation shall file a notice with the cabinet that states the operator's intent to meet the requirements of this chapter by July 1, 1993.

(2) After July 1, 1993, no person shall operate a special waste landfill or special waste landfarming facility unless one (1) of the paragraphs of this subsection is satisfied and the owner or operator has complied with subsection (1) of this section:

(a) The facility owner or operator possesses a permit issued or continued under 401 KAR Chapters 47 and 48;

(b) The facility owner or operator possesses a permit issued or modified to meet the technical standards of this chapter;

(c) An application for a permit modification for closure or conversion to a different classification under this chapter has been filed with the cabinet within twelve (12) months of the effective date of this administrative regulation, and the cabinet has not yet rendered a decision with respect to the complete application; or

(3) An owner or operator of a site or facility that was previously regulated as a solid waste registered permit-by-rule, but is now regulated as a special waste registered permit-by-rule under 401 KAR 45:070, shall be deemed to have a special waste registered permit-by-rule without having to resubmit a registration.

(4) An owner or operator of a site or facility that was previously regulated as a solid waste permit-by-rule, but is now regulated as a special waste registered permit-by-rule, shall register with the cabinet in accordance with 401 KAR 45:070 by December 31, 1992.

Section 5. Solid Waste Facility Applications Pending on the Effective Date of this Administrative Regulation. Applications pending on the effective date of this administrative regulation shall be revised to meet all requirements of this chapter prior to being determined technically complete.

Section 6. Closure Criteria for Sites or Facilities Not Applying for a Special Waste Permit. Any person disposing of special waste under a solid waste landfill or landfarming permit issued before the effective date of this administrative regulation, who elects to cease operation at the facility by July 1, 1993, shall comply with the closure requirements of the solid waste permit and 401 KAR Chapters 47 and 48. (18 Ky.R. 3078; eff. 6-24-92.)